

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**HILDA VILLEGAS**

Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 21A-DUA-01800-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**

**Claimant: Appellant (1)**

PL 116-136, Sec. 2012 – Federal Pandemic Unemployment Assistance  
Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Admin. Code r. 871-24.35 – Filing

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the Iowa Workforce Development decision dated January 9, 2021 that determined claimant was eligible for Pandemic Unemployment Assistance (PUA) benefits effective August 30, 2020. A telephone hearing was held on October 19, 2021. Claimant participated. Spanish interpretation was provided by Sylvia (ID 8768) of CTS Language Link. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUED:**

Whether claimant filed a timely appeal.

Whether claimant is eligible for PUA prior to the start date of August 30, 2020.

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The decision was mailed to claimant at the correct address on January 9, 2021. Claimant received the decision. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by January 21, 2021.

Claimant appealed the decision via fax on August 26, 2021. Claimant's appeal was received by the Appeals Bureau on August 26, 2021. Claimant gave no reason for the delay in submitting the appeal.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's appeal was untimely.

Iowa Code § 96.6(2) provides, in pertinent part: "[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision."

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Claimant received the decision but did not appeal the decision until after the deadline. Claimant has not established that her delay was due to agency error or misinformation or delay of the United States Postal Service. The appeal was not timely. Therefore, the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the appeal.

**DECISION:**

Claimant's appeal was not timely. The administrative law judge has no authority to change the decision of the representative. The Iowa Workforce Development decision dated January 9, 2021 that determined claimant is eligible for PUA effective August 30, 2020 is affirmed and remains in effect.



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Adrienne C. Williamson  
Administrative Law Judge  
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November 5, 2021  
Decision Dated and Mailed

acw/kmj